IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No.365 of 1992

Decided on : 30.10.2007

State of H.P. **…Appellant**

Versus

Suger Ram and others **…Respondents**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

The Hon'ble Mr. Justice Surinder Singh, Judge.

Whether approved for reporting?

For the appellant : Mr. Som Dutt Vasudeva, Additional Advocate General with Mr. D.S. Nainta, Deputy Advocate General

For the respondents : Mr. Ramakant Sharma, Advocate, for respondents No.1, 4, 5 and 6.

Surjit Singh, Judge (oral)

This appeal is directed by the State against the judgment of the trial Magistrate, whereby the respondents, numbering six, who were sent up for trial for offences punishable, under Sections 382, 506, 323, 147 read with section 149 of the Indian Penal Code, by the police, stand acquitted.

2. A report was lodged against the respondents by PW-1 Gurcharan Singh that on 17.2.1989, when he was present at a bus stop and waiting for a bus at a place called Majra around 9.30 AM, all the respondents appeared and asked him why did he support the parents of Kaushlya Devi and then started giving beating to him and removed currency notes of Rs.1500/- from his pocket. He reported that PW-3 Gurmel Singh was with him when the incident took place.

Whether reporters of the local papers may be allowed to see the judgment?

3. Trial Magistrate charged the respondents with the offences, under Sections 382, 506, 323, 147 read with Section 149 I.P.C. At the end of the trial, the learned Magistrate acquitted all the respondents holding that the charge did not stand proved against them.

4. We have heard the learned Additional Advocate General. All the witnesses examined by the prosecution, except PW-1 Gurcharan Singh, turned hostile. They did not support the prosecution allegations. Even PW-3 Gurmel Singh, who was allegedly in the company of Gurcharan Singh, did not corroborate his version.

5. According to prosecution, one of the respondents, named Suger Ram, produced currency notes of Rs.1500/- to the police during the investigation of the case and stated that the money had been removed by him from the pocket of PW-1 Gurcharan Singh. This money was allegedly produced by Suger Ram in the presence of two persons, i.e. PW-6 Mushtaq Ali and PW-10 Mehndi Hassan. PW-6 Mushtaq Ali denied that the said respondent, at the time of production of the currency notes, stated that he had removed the money from the pocket of PW-1 Gurcharan Singh. Respondents examined one witness, named Dasondhi Ram as DW-1, who stated that an amount of Rs.1500/- had been borrowed from him on 21.2.1989 by respondent Suger Ram by pledging his ear rings and he told that the money was required to be given to the police and that later on the said respondent gave the money to the police. PW-10 Mehndi Hassan, the other witness, in whose presence the money was allegedly produced by respondent Suger Ram testified that Suger Ram stated that when the money was produced, DW-1 Dasondhi Ram was also at the Police Station and he had claimed that the money had been lent by him to respondent Suger Ram. The prosecution did not cross-examine this witness nor did it confront him with his statement under Section 161 Cr.

P.C. or memo. Ext.PW5/A against which money was produced by respondent Suger Ram and taken into possession by the police.

6. All the injuries, which were noticed on the person of PW-1 Gurcharan Singh, were superficial, per opinion of Dr. Lokesh Sharma (PW-7).

7. In view of the above stated position, we see no merit in the present appeal. The same is, therefore, dismissed.

(Surjit Singh), J

October 30 , 2007(ss) **(Surinder Singh), J**